IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	Examiner:	Salce, J.
Hofrichter, et al.	Art Unit:	2623
Application No. 09/696,609	Confirm. No:	3968
Filed: October 24, 2000		
For: AUTOMATED CONTEXT-SENSITIVE UPDATING OF IN AN AUDIOVISUAL STORAGE SYSTEM		

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 2623, mailed October 12, 2007, in which claims 1-14, 16-24, and 26-35 in the above-identified application were rejected in a final action. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a).

I. REAL PARTY IN INTEREST

The real parties in interest are the co-assignees of the full interest in the invention: Sony Electronics, Inc., Park Ridge, New Jersey, and Sony Corporation, Tokyo, Japan.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

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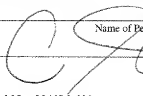


March 28, 2008

Signature Date

III. STATUS OF THE CLAIMS

Claims 1-14, 16-24, and 26-35 are pending in the application and were finally rejected in an Office Action mailed October 12, 2007. Claims 1-14, 16-24, and 26-35 are the subject of this appeal. A copy of Claims 1-14, 16-24, and 26-35 as they stand on appeal are set forth in Appendix A.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been made after receipt of the Final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellant's invention as claimed in claims 1-14, 16-24, and 26-35 is directed to enabling automatic management of data stored on a media storage device [Specification, Figure 4, p. 20, lines 19-23].

Independent method claim 1 claims receiving content and context data at the media storage device, where the content and context data update part of an audiovisual program stored on the media storage device [Specification, Figure 4, blocks 4002, 4002a, 4003, 4003a, p. 19, line 13 – p. 20, line 14]. In addition, independent claim 1 claims receiving executable storage management instruction from a media service provider that, when executed, perform automated management of the media storage device in accordance with the storage media instructions [Specification, Figure 4, block 4004, p. 20 line 15 – p. 21, line 4]. Furthermore, independent claim 1 claims storing the content and context data at the media storage device in accordance with the storage management instructions [Specification, Figure 4, block 4006, p. 21, lines 6-10]. Independent claim 1 also claims identifying previously stored content data at the media storage device as being outdated using the received context data [Specification, Figure 4, block 4013ab, p. 22, lines 13-22]. Independent claim 1 further claims replacing the previous stored content data with the received content data [Specification, p. 18, lines 9-17].

Independent method claim 11 claims generating executable storage management instructions for an on-site media storage device [Specification, Figure 5, paragraph YY]. In addition, independent claim 11 claims that the storage management instructions, when executed, automate management of data stored on the on-site media storage device

without requiring user input [Specification, Figure 5, block 5006, p. 25, line 18 – p. 26, line 5]. Furthermore, independent claim 11 claims that the storage management instructions are context-sensitive and identify previously stored content data that is part of an audiovisual program to the on-site media storage device as being outdated using the context data [Specification, Specification, p. 5, lines 10-21]. Independent 11 also claims replacing the previous stored content data with the received content data [Specification, p. 18, lines 9-17]. Independent claim 11 further claims transmitting the storage management instructions to the on-site media storage device [Specification, Figure 5, step 5004, p. 25, lines 8-16].

Independent computer readable medium claim 21 claims generating executable storage management instructions for an on-site media storage device [Specification, Figure 5, paragraph YY]. In addition, independent claim 21 claims that the storage management instructions, when executed, automate management of data stored on the on-site media storage device without requiring user input [Specification, Figure 5, block 5006, p. 25, line 18 – p. 26, line 5]. Furthermore, independent claim 21 claims that the storage management instructions are context-sensitive and identify previously stored content data that is part of an audiovisual program to the on-site media storage device as being outdated using the context data [Specification, p. 5, lines 10-21]. Independent 21 also claims replacing the previous stored content data with the received content data [Specification, p. 18, lines 9-17]. Independent claim 21 further claims transmitting the storage management instructions to the on-site media storage device [Specification, Figure 5, step 5004, p. 25, lines 8-16].

Independent method claim 32 claims receiving and storing a program at a media storage device, where the program comprises a plurality of clips [Specification, Figure 3, p. 17, line 18 – p. 18, line 17]. In addition, independent claim 32 claims receiving an updated version of a particular one of the plurality of clips [Specification, p. 18, lines 9-17]. Furthermore, claim 32 receiving executable storage management instructions at the media storage device, where the storage management instructions instruct the media storage device to create an updated version of the program [Specification, Figure 4, block 4004, p. 20 line 15 – p. 21, line 4]. Independent claim 32 also claims creating the updated version of the program by using received context data associated with the particular one of the plurality of clips to update the stored program with the updated version of the particular one of the plurality of clips [Specification, Figure 4, step 4013a, p. 22, lines 13-

19]. Independent claim 32 further claims that the storage management instructions instruct the media storage device to store the updated version of the program [Specification, Figure 4, step 4013a, p. 22, lines 13-19]. Independent claim 32 also claims that the storage management instructions instruct the media storage device to identify previously stored content data at the media storage device as being outdated using said received context data [Specification, p. 18, lines 9-17]. Independent claim 32 also claims automatically executing the received storage management instructions without requiring a user input [Specification, Figure 5, step 5006, p. 25, line 18 – p. 26, line 5, p. 20, lines 19-23].

Dependent claim 5 depends from independent claim 1 and claims that the storage management instructions provide context-sensitive management of said content data stored on said media storage device [Specification, p. 20, lines 19-23].

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

I. Claims 1-4, 6-9, 11-14, 16-19, 21-24, 26-29, 31, and 34-35 stand rejected under 35 U.S.C. § 103(a) as being obvious over Sezan et al., U.S. Patent No. 6,236,395 in view of Cobbley et al., U.S. Patent No. 5,818,510.

II. Claims 5, 10, 20, and 30 stand rejected under 35 U.S.C. § 103(a) as being obvious over Sezan in view of Cobbley and Kunkel et al., US Patent Publication No. 2002/0056093.

III. Claims 32 and 33 stand rejected under 35 U.S.C. § 103(a) as being obvious over Sezan in view of Cobbley and Kenner et al., US Patent 5,956,716.

VII. ARGUMENTS

I. Claims 1-4 and 6-9 are Patentable under 35 U.S.C. § 103(a) over Sezan in view of Cobbley, because the combination does not teach or suggest all elements in the claims.

Claims 1-4 and 6-9 stand or fall together. Independent claim 1 is the representative claim.

Sezan discloses using different description schemes that contain data or links to data for television content browsing, filtering, searching, archiving, and personalization. Sezan discloses three such description schemes: program, system and user. The program,

system, and user description schemes are data for program views and program profiles, managing individual programs, and user's personal preferences, respectively. Different modules of Sezan's audiovisual system use the data in the different description schemes. For example, the analysis module uses the user description scheme data to trigger highlight functionality for a particular program. The analysis module further generates preferred views and stores associated data for the program description scheme.

Cobbley discloses a system that transmits and stores audiovisual segments. The system stores the segments in a cache and indexes the segments.

Appellant respectfully submits that the combination of Sezan and Cobbley does not teach or suggest each and every element of claim 1. Claim 1 recites a media storage device that receives executable storage management instructions from a media service provider. The Examiner apparently equates Sezan's description schemes with Applicant's executable storage management instructions. As is known in the art, data can be used in conjunction with execution of an instruction, but mere data is not executable by itself. Sezan's description schemes are merely data that are used by modules and not executable storage management instructions as claimed. For example, Sezan's analysis module uses the user description scheme to trigger other instructions that highlight functionality. Sezan does not teach or suggest that the description scheme contains executable instructions. Thus, Sezan's description schemes cannot be properly equated to Applicant's executable storage management instructions as claimed. Furthermore, there is no other disclosure in Sezan that teaches of suggests receiving or generating and transmitting storage management instructions as claimed.

In addition, because Cobbley is directed towards transmitting and storing audiovisual segments and segments are not executable, Cobbley cannot teach or suggest receiving or generating and transmitting storage management instructions as claimed. Thus, neither Sezan nor Cobbley teaches or suggests receiving or generating and transmitting storage executable management instructions as claimed. Therefore, the combination of Sezan and Cobbley cannot be properly interpreted as rendering obvious independent claim 1.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 1-4 and 6-9 under 35 U.S.C. § 103(a) over the combination of Sezan and Cobbley.

I. Claims 11-14, 16-19, 21-24, 26-29, 31, and 34-35 are Patentable under 35 U.S.C. § 103(a) over Sezan in view of Cobbley, because the combination does not teach or suggest all elements in the claims.

Claims 11-14, 16-19, 21-24, 26-29, 31, and 34-35 stand or fall together. Independent claim 11 is the representative claim.

Appellant respectfully submits that the combination of Sezan and Cobbley does not teach or suggest each and every element of claim 11. Claim 11 recites generating and transmitting executable storage management instructions to an on-site media storage device. Because Sezan does not teach or suggest Appellant's executable storage management instructions as claimed, Sezan cannot be properly interpreted as disclosing generating and transmitting executable storage management instructions as claimed. Furthermore, Cobbley does not teach or suggest this claim element. Therefore, the combination of Sezan and Cobbley cannot be properly interpreted as rendering obvious independent claim 11.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 11-14, 16-19, 21-24, 26-29, 31, and 34-35 under 35 U.S.C. § 103(a) over the combination of Sezan and Cobbley.

II. Claims 5, 10, 20, and 30 are Patentable under 35 U.S.C. § 103(a) over Sezan in view of Cobbley and Kunkel because the combination does not teach or suggest all elements in the claims.

Claims 5, 10, 20, and 30 stand of fall together. Dependent claim 5 is the representative claim.

Kunkel discloses transmitting information in a broadcast distribution system that is targeted to a system user. The system transmits multiple advertisements to the user. The system selects one advertisement to display based on the user's demographic data.

Appellant respectfully submits that the combination does not teach or suggest each and every limitation of Appellant's claim 5. Claim 5 depends from independent claim 1. Claim 1 recites a media storage device that receives executable storage management instructions from a media service provider. Because Kunkel is directed to transmitting advertisements in a broadcast distribution system and advertisements are not executable, Kunkel cannot teach or suggest receiving storage executable management

instructions as claimed in independent claim 1. As discussed above, neither Sezan nor Cobbley teach or suggest these claim limitations.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 5, 10, 20, and 30 under 35 U.S.C. § 103(a) over the combination of Sezan, Cobbley, and Kunkel.

III. Claims 32 and 33 are Patentable under 35 U.S.C. § 103(a) over Sezan in view of Cobbley and Kenner because the combination does not teach or suggest all elements in the claims.

Claims 32 and 33 stand or fall together. Independent claim 32 is the representative claim.

Kenner discloses a system that retrieves video clips that are stored locally or at a remote location. Furthermore, the system can update whole video clips and the video clips can be segmented.

Independent claim 32 receiving executable storage management instructions, wherein the storage management instructions instruct the media storage device to create an updated version of a program using received context data. However, because Kenner is directed to retrieving and updating video clips and video clips are not executable, Kenner cannot teach or suggest receiving executable storage management instructions as claimed. As stated above, neither of Sezan nor Cobbley teach or suggest receiving executable storage management instructions. Therefore, the combination cannot render obvious Appellant's claim 32.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 32 and 33 under 35 U.S.C. § 103(a) over the combination of Sezan, Cobbley, and Kenner.

VIII. CONCLUSION

Appellant's claims 1-4, 6-9, 11-14, 16-19, 21-24, 26-29, 31, and 34-35 are patentable because the combination of Sezan and Cobbley does not teach or suggest all limitations in the claims. Appellant's claims 5, 10, 20, and 30 are patentable because the combination of Sezan, Cobbley, and Kunkel does not teach or suggest all the limitations in the claims. Appellant's claims 32 and 33 are patentable because the combination of Sezan, Cobbley, and Kenner does not teach or suggest all the limitations in the claims.

Accordingly, Appellant respectfully requests the Board reverse the rejections of claims 1-14, 16-24 and 26-35 under 35 U.S.C. § 103(a), and direct the Examiner to enter a Notice of Allowance for claims 1-14, 16-24 and 26-35.

Fee for Filing a Brief in Support of Appeal

Enclosed is a check in the amount of $510.00 to cover the fee for filing a brief in support of an appeal as required under 37 C.F.R. §§ 1.17(c) and 41.37(a).

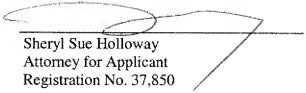
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: March 28, 2008



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CLAIMS APPENDIX

1. (Previously Presented) A media storage device implementing a method of enabling automated management of data stored on said media storage device, said method comprising:

receiving content data at said media storage device;

receiving context data at said media storage device, wherein said content data and said context data update part of an audiovisual program stored on the media storage device;

receiving executable storage management instructions from a media service provider that, when executed, perform automated management of said media storage device without requiring user input;

storing said content data and said context data on said media storage device in accordance with said storage management instructions;

identifying previously stored content data at said media storage device as being outdated using said received context data; and

replacing said previously stored content data with said received content data.

2. (Original) The media storage device recited in Claim 1 wherein said media storage device is comprised of:

a processor coupled to said storage medium; and

a computer readable memory coupled to said processor and containing program instructions stored therein that, when executed, implement said method of enabling automated management of data stored on said storage medium.

3. (Previously Presented) The media storage device recited in Claim 1 wherein said storage management instructions are transmitted by a storage management service provider located remotely from said media storage device.

4. (Previously Presented) The media storage device recited in Claim 1, wherein the method further comprises:

managing said content data and said context data stored on said media storage device according to said storage management instructions.

5. (Previously Presented) The media storage device recited in Claim 4 wherein said storage management instructions provide context-sensitive management of said content data stored on said media storage device.

6. (Previously Presented) The media storage device recited in Claim 1, wherein the method further comprises:

allowing overwriting of new content data over content data recorded onto said media storage device in accordance with said storage management instructions.

7. (Previously Presented) The media storage device recited in Claim 1, wherein the method further comprises:

receiving user preference data from an on-site user.

8. (Previously Presented) The media storage device recited in Claim 7, wherein the method further comprises:

tailoring said storage management instructions with respect to said user preferences.

9. (Original) The media storage device recited in Claim 1 wherein said storage management instructions are adaptively updated.

10. (Original) The media storage device recited in Claim 1 wherein said storage management instructions are capable of managing a discrete context-content clip of data.

11. (Previously Presented) A method of managing an on-site media storage device, said method comprising:

generating executable storage management instructions for said on-site media storage device, said storage management instructions, when executed, automate management of data stored on said on-site media storage device without requiring user input, wherein said storage management instructions are context-sensitive, identify previously stored content data that is part of an audiovisual program at said on-site media storage device as being outdated using context data, and replace said previously stored content data with a received content data; and

transmitting said management instructions to said on-site media storage device.

12. (Previously Presented) The method recited in Claim 11 further comprising:

enabling said storage management instructions to execute on said on-site media storage device.

13. (Previously Presented) The method recited in Claim 11 wherein said storage management instructions are provided by a storage management service provider located remotely from said on-site media storage device.

14. (Previously Presented) The method recited in Claim 11 wherein said storage management instructions are capable of said automated management of a media signal without requiring input from a user.

15. (Cancelled)

16. (Previously Presented) The method recited in Claim 6 further comprising

enabling said allowing overwriting of a new media signal onto said content data and said context data stored on said on-site media storage device in accordance with said storage management instructions.

17. (Original) The method recited in Claim 11 wherein said storage management instructions are capable of interpreting user preference data from an on-site user of said on-site media storage device.

18. (Previously Presented) The method recited in Claim 17 further comprising:

tailoring said storage management instructions with respect to said user preferences.

19. (Original) The method recited in Claim 11 wherein said storage management instructions are adaptively updated.

20. (Previously Presented) The method recited in Claim 11 wherein said storage management instructions are capable of managing a discrete context-content clip of data.

21. (Previously Presented) A computer readable medium containing therein, computer readable codes for causing an electronic device to implement a method of managing on-site storage, said method comprising

generating executable storage management instructions for an on-site media storage device, said storage management instructions operable for automated management of data stored on said on-site media storage device without requiring user input, wherein said storage management instructions are context-sensitive, identify previously stored content data that is part of an audiovisual program at said on-site media storage device as being outdated using context data, and replace said previously stored content data with a received content data; and

transmitting said storage management instructions to said on-site media storage device.

22. (Previously Presented) The computer readable medium recited in Claim 21 further comprising:

enabling said storage management instructions to execute on said on-site media storage device.

23. (Original) The computer readable medium recited in claim 21 wherein said storage management instructions are provided by a storage management service provider.

24. (Original) The computer readable medium recited in Claim 21 wherein said storage management instructions are capable of said automated management of a media signal without requiring input from a user.

25. (Canceled)

26. (Previously Presented) The computer readable medium recited in Claim 21 further comprising

allowing overwriting of a new media signal onto content data recorded onto said media storage device in accordance with said storage management instructions.

27. (Original) The computer readable medium recited in Claim 21 wherein said storage management instructions are capable of interpreting user preference data from a on-site user of said on-site media storage device.

28. (Previously Presented) The computer readable medium recited in Claim 26 further comprising:

tailoring said storage management instructions with respect to said user preferences.

29. (Original) The computer readable medium recited in Claim 21 wherein said storage management instructions are adaptively updated.

30. (Original) The computer readable medium recited in Claim 21 wherein said storage management instructions are capable of managing a discrete context-content clip of data.

31. (Original) The computer readable medium recited in Claim 21 wherein said storage management instructions are integrated with said media signal.

32. (Previously Presented) A method comprising:

receiving and storing a program at a media storage device, wherein the program comprises a plurality of clips;

receiving an updated version of a particular one of the plurality of clips;

receiving executable storage management instructions at the media storage device, wherein the storage management instructions instruct the media storage device to create an updated version of the program by using received context data associated with the particular one of the plurality of clips to update the stored program with the updated version of the particular one of the plurality of clips, and wherein the storage management instructions instruct the media storage device to store the updated version of the program, and wherein said storage management instructions instruct the media storage device to identify previously stored content data at the media storage device as being outdated using said received context data; and

automatically executing the received storage management instructions without requiring a user input.

33. (Previously Presented) The method of claim 32, further comprising:

outputting the program from the media storage device before receiving the updated version of the particular one of the plurality of clips; and

outputting the updated version of the stored program from the media storage device.

34. (Previously Presented) The method recited in Claim 11 wherein said context data is received at said on-site media storage device.

35. (Previously Presented) The computer readable medium recited in Claim 21 wherein said context data is received at said on-site media storage device.

EVIDENCE APPENDIX

NONE.

RELATED PROCEEDINGS APPENDIX

NONE.